Supreme Court, U.S.
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No. 05-1230

IN THE

Supreme Court of the United States

FINANCE ONE PUBLIC COMPANY LIMITED,

Petitioner,

—v.—

LEHMAN BROTHERS SPECIAL FINANCING, INC.,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

Responding to the Southeast Asian economic crisis of 1996 and seeking equal treatment of creditors, the Thai Ministry of Finance prohibited failing financial institutions from paying certain debts. In this diversity action governed by Thai law, the court of appeals undermined the Thai government's orders by permitting the very payments those orders precluded.

The questions presented are:

1. May a federal court, in determining the content of foreign law, refuse to follow a concededly-indistinguishable civil-law court decision solely because that decision is not binding, in violation of principles of international comity compelling deference to a foreign court's determination of the content of its own laws absent a valid reason not to follow it?

2. Does it violate Federal Rule of Civil Procedure 44.1 to grant judgment against a party solely because that party did not definitively substantiate a point of foreign law, a question that has divided the federal courts of appeals?

PARTIES TO THE PROCEEDINGS

Petitioner Finance One Public Company Limited, a company organized under the laws of the Kingdom of Thailand and now in receivership under that nation's laws, was appellee and cross-appellant below. Respondent Lehman Brothers Special Financing Inc. was appellant and cross-appellee below.

Pursuant to Rule 29.6, Petitioner states that it has no parent corporation and no publicly held company owns 10% or more of its stock.

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